

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.5715 OF 1985

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

SHRI N D BIHOLA

VERSUS

DIRECTOR GENERAL OF POLICE & ORS.

Appearance:

None present for Petitioner

Smt. Siddhi Talati for Respondent-State

Coram: S.K. Keshote,J

Date of decision:15/08/1997

C.A.V. JUDGMENT

#. The matter was called out for hearing in the first round, then in the second round and lastly in the third round, but none put appearance on behalf of petitioner.

#. This petition is filed by petitioner, a police sub inspector, challenging the order of his transfer from Baroda to Bhavnagar.

#. Under the order dated 12.2.84, the petitioner was transferred from Baroda City to Western Railway, by D.G.P. Baroda. So he was not dissatisfied with this order. Under the order dated 3rd March 1984, he was posted at Bhavnagar. The petitioner had mentioned this order, but curiously enough, a copy of the said order has not been annexed to the Special Civil Application. It appears that under the order dated 6.4.85, the petitioner was again transferred to Baroda, but later on he was re-transferred to Bhavnagar. This order is also not produced on record of Special Civil Application. The petitioner, so far as the first and last orders are concerned, has not produced them on record and has produced annexure 'A', an order which favours him. So whatever unfavourable orders were there, the petitioner has not produced them on record and has shown his inability to produce the same and whatever order was in his favour has been produced before this Court.

#. The petitioner is a police sub inspector and this conduct of petitioner deserves criticism. The petitioner, being a police sub inspector should have taken the order of transfer and should have complied with the said order where the Court is not protecting him, but approaching this Court and praying for interim relief without filing the order is really a serious matter. Be that as it may, the petitioner has been protected by this Court by way of interim relief. That interim relief is continued till this date. So it is a case where the order of transfer has not been given effect to. The petitioner was posted, after he has been appointed as police sub inspector at Baroda in 1974, and till the first order dated 3rd March 1984 has been made, he remained there. So he was at Baroda for more than 11 years and thereafter in case he was sought to be transferred therefrom how far this action can be said to be arbitrary and malafide. It is a case where the petitioner wanted to stay at one place. It is not a case where within a short spell of time, he has been transferred. After staying at Baroda for 11 years if he is transferred, how it can be said to be arbitrary or malafide. It is well settled law that in the matter of

transfer of Government servants, this Court has very very limited power of judicial review. A Government servant can challenge the validity of transfer order before this Court only on the ground that it is malafide or that while passing the order, the authority has violate some statutory provisions, which is not the case here. A reference in this respect may have to the decision of Hon'ble Supreme Court in the case of Union of India v. S.L. Abbas, reported in JT 1993(3) SC 678. The petitioner has failed to make out any case of malafide. The petitioner has also failed to show how this order of transfer is made in contravention of statutory provisions. This writ petition is wholly misconceived.

#. In the result, the Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief granted by this Court stands vacated.

#. The petitioner is directed to pay Rs.2,000/- by way of costs of this petition to respondent No.1. The respondent No.1 is directed to deposit this amount of costs, after recovering the same from the petitioner, in the Police Welfare Fund.

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